IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL SECOND APPEAL No. 156 of 2004

SHANKER LAL
V/S
THE MUNCIPAL BOARD, NATHDWARA

Mr. CHAITANYA GAHLOT, for the appellant / petitioner

Mr. KAILASH JOSHI, for the respondent

Date of Order : 3.8.2006

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the parties. Perused the impugned judgment and have also perused the record.

Both the learned courts below have found that the plaintiff is in unauthorised occupation of the land, in respect of which notice has been give to him, by the Municipality.

It is contended by the learned counsel for the appellant, that the courts below have gone wrong in arriving at conclusion, because the precise controversy was to whether Yard (Gaj) comprises of 2ft. or 3ft., inasmuch as according to the plaintiff, the Gaj comprises of 3 ft., while the courts below have proceeded on the basis, that the Gaj comprises of 2 ft., and thus the courts below have gone wrong.

I have considered the submission. From the perusal of the record it transpires, that apart from the fact that the defendant has led positive evidence, to the effect, that upto the year 1960, in the area concerned, Gaj comprised of 2 ft. and it is in 1974 only that the Gaj was started to be treated to comprise of 3 ft. That apart, from the perusal of the evidence led on the side of the plaintiff himself, it is clear, that the plaintiffs have described the land purchased by them, by giving measurement in fts., instead of Gaj, and if the site plan, appearing on the back side of the patta Exhibit-1, which gives measurement in Gaj, are read together, it becomes clear, that the Gaj, mentioned in Exhibit-1, did comprise of 2 ft. only. This aspect has been considered by both the learned courts below, and in my view correctly.

The finding given in this regard, i.e. about the extent of land, coming to the plaintiff, consequent upon the patta, and purchase by the plaintiffs, as recorded by the two learned courts below, is a pure finding of fact, and even after re-appreciating entire material on record, I am at one with the finding of the learned courts below.

The appeal thus does not involve any substantial question of law, and the same is, therefore, dismissed summarily.

(N P GUPTA),J.

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